IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6624 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RANVIRBHAI I MAZMUDAR]

Versus

STATE OF GUJARAT

Appearance:

MR DHIRENDRA MEHTA FOR MR PV HATHI for Petitioner

NOTICE SERVED for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 03/03/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution of India, the petitioner has claimed that he is entitled to pension on the basis of 25 years of qualifying service and the respondent authority without, seriously, examining the case has rejected his claim for pension.

After having heard the learned counsel for the petitioner and considering the facts of the case, following aspects are not in dispute:

(1) The petitioner was working as a Statistical Assistant in the Bureau of Economics & Statistics, and thereafter, as Block Development Officer during the period from 1958 to 1963, which is sought to be included in the length of service so as to claim pension on the basis of qualifying service of 25 years.

(2) The respondent authority was directed by this Court to decide the case of the petitioner by virtue of interim order recorded in Civil Application No.1917/92. The respondents were directed to take a decision as regards counting of the petitioner's service in the Directorate of Bureau of Economics & Statistics for computing his qualifying service for payment of pension to him, afresh, in the light of the Government Resolutions dated 7.11.88 and 31.1.90, within a period of two months of the receipt of the writ of this Court.

(3) The said interim order was passed while disposing of Civil Application No.1917/92 on 29.9.92.

(4) Pursuant to the said direction, the Government has considered the case of the petitioner and has rejected the claim by an order dated 18th March, 1993. A detailed order is passed and the Directorate of the Higher Education is accordingly informed by the Government, and a copy, whereof was sent to the District Education Officer, Valsad. A copy is also shown to this Court when the matter was called by learned advocate Mr Mehta.

After having considered the facts and circumstances and the relevant resolutions of the Government, the decision of the Government in refusing to consider the period from 1958 to 1963 (4 years 2 months and 23 days) for determining the period of qualifying service cannot be said to be in any way unjust, unreasonable or vulnerable. The petitioner, admittedly, had resigned from the office of the Directorate of Bureau of Economics & Statistics and, thereafter, pursued study. Subsequently, he joined as Teacher in the Government service which is not sufficient to treat it as qualifying for pension. The

break in service is more than 4 years. Therefore, the period which is sought to be considered and counted towards qualifying period for pension is not permissible and acceptable and, therefore, the claim made in this petition is not justified and acceptable.

In the result, the petition is required to be rejected being meritless. Accordingly, it is rejected. Rule discharged with no order as to costs.

(vjn)